

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JASON WINTERS,

Plaintiff,

-v.-

CITY OF NEW YORK DEPT. OF
CORRECTION(S); C/O MOORE
#17409,

Defendants.

21 Civ. 2440 (KPF)

ORDER OF SERVICE

KATHERINE POLK FAILLA, District Judge:

Plaintiff Jason Winters, who appears *pro se*, asserts claims against “City of New York Dept. of Correction(s)” (“DOC”) and Correction Officer Moore. DOC, as an agency of the City of New York, is not an entity that can be sued. See N.Y. City Charter ch. 17, § 396 (“[A]ll actions and proceedings for the recovery of penalties for the violation of any law shall be brought in the name of the city of New York and not in that of any agency, except where otherwise provided by law.”); *Emerson v. City of New York*, 740 F. Supp. 2d 385, 395 (S.D.N.Y. 2010) (“[A] plaintiff is generally prohibited from suing a municipal agency.”). The Court therefore dismisses Plaintiff’s claims against DOC.

In light of Plaintiff’s *pro se* status and clear intention to assert claims against the City of New York, the Court construes Plaintiff’s complaint as asserting claims against the City of New York, and directs the Clerk of Court to amend the caption of this action to replace DOC with the City of New York. See Fed. R. Civ. P. 21. This amendment is without prejudice to any defenses the City of New York may wish to assert.

The Court directs the Clerk of Court to notify the New York City Department of Correction and the New York City Law Department of this order. The Court requests that the City of New York and Correction Officer Moore (Badge No. 17409) waive service of summons.

Local Civil Rule 33.2, which requires defendants in certain types of prisoner cases to respond to specific, court-ordered discovery requests, applies to this action. Those discovery requests are available on the court's website under "Forms" and are titled "Plaintiff's Local Civil Rule 33.2 Interrogatories and Requests for Production of Documents." Within 120 days of the date of this order, the City of New York and Moore must serve responses to those standard discovery requests. In their responses, the City of New York and Moore must quote each request verbatim.¹

The Clerk of Court is directed to mail a copy of this Order to Plaintiff at his address of record.

SO ORDERED.

Dated: April 21, 2021
New York, New York



KATHERINE POLK FAILLA
United States District Judge

¹ If Plaintiff would like copies of those discovery requests before receiving the responses and does not have access to the website, Plaintiff may request them from the court's Pro Se Intake Unit.